

REMARKS

As an initial matter, the Applicants would like to thank the Examiner for approving the Drawings submitted August 19, 2003, acknowledging Applicants' claim for foreign priority, and considering the documents cited in the Information Disclosure Statements submitted on November 19, 2003 and January 5, 2004.

Claims 1-6 are pending in the application. Claims 1-3 and 5 have been amended. Claim 6 has been newly added. Reconsideration of the rejection and allowance of the pending application in view of the following remarks are respectfully requested.

The present invention relates to an intervertebral spacer. The spacer of the present invention includes a body, which is defined by a pair of upper and lower surfaces, and a pair of side surfaces connected to the upper and lower surfaces. The spacer also includes a withdrawal preventer formed on the upper and lower surfaces of the body, and including a plurality of claw portions, which prevents the spacer from being easily removed after it is inserted between vertebrae.

In the Office Action of September 7, 2004, the Examiner objected to claim 3, stating that the "asymmetric shape, in a sectional side view" of the body is claimed twice. Applicants respectfully traverse this objection.

Claim 1 recites a withdrawal preventer formed asymmetrically in a sectional side view. Claim 3, which depends on claim 1, recites that each claw portion of the withdrawal

preventer is formed in an asymmetric triangle shape. The limitation of claim 3 is clearly different than the limitation of claim 1, as the claim 3 limitation refers to each claw portion, whereas the claim 1 limitation refers to the withdrawal preventer. Therefore, Applicants respectfully request withdrawal of the objection to claim 3.

In the Office Action, the Examiner rejected claims 1-5 under 35 U.S.C. §102(e) as being anticipated by Lin (U.S. Patent No. 6,325,827). Claim 1 is currently amended to recite that the upper and lower surfaces of the body slant such that the distance between the upper and lower surfaces at the front side of the intervertebral spacer is greater than the distance between the upper and lower surfaces at the rear side of the intervertebral spacer. Applicants respectfully submit that this feature, in combination with the other features recited in the claims, are not disclosed by Lin.

Lin relates to an intervertebral implant. As illustrated in Figures 8, 13 and 18, the upper and lower surfaces of Lin's main body slant such that the distance between the upper and lower surfaces at the front side of the intervertebral implant is slightly less than the distance between the upper and lower surfaces at the rear side of the intervertebral implant. In contrast, the upper and lower surfaces of the body of the intervertebral spacer of the present invention slant such that the distance between the upper and lower surfaces at the front side of the intervertebral spacer is greater than the distance between the upper and lower surfaces at the rear side of the intervertebral spacer. Applicants direct the

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Examiner's attention to Figure 2B of Applicants' disclosure, where it can be seen that the upper and lower surfaces of the main body of Applicants' spacer slant in an opposite direction to the slant of the upper and lower surfaces of the main body of Lin's implant. Therefore, Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. §102(e) is improper, and withdrawal thereof is respectfully requested. Dependent claims 2-6 are also submitted to be in condition for allowance at least in view of their dependence on claim 1.


Additionally, newly added claim 6 recites that each of the claw portions extend across the main body from one side surface to the other side surface. Applicants submit that this feature is not disclosed by Lin. As illustrated in Figures 7 and 12, the claw portions of Lin's intervertebral implant are arranged in two parallel rows 22a and 22b separated by a hollow portion, and do not extend from one side surface of the main body to the other side surface.

Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

SUMMARY AND CONCLUSION

Entry and consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate. Applicant has made a sincere effort to place the present invention in condition for allowance and believes that he has now done so. Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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